

REMARKS/ARGUMENTS

Claims 1-63 are subject to a restriction and/or election requirement. Applicants have amended claims 39 and 40 and therefore claims 1-63 remain in the application.

The Examiner institutes a restriction requirement under 35 USC §121 with respect to the present application. However, the present application is a national phase entry of PCT International Application No. PCT/GB03/04898 and, as such, is not subject to 35 USC §121. The Examiner is reminded of the instructions in the Manual of Patent Examining Procedure (MPEP) at Section 1893.03(d) entitled “Unity of Invention.” The Manual specifies that “examiners are reminded that unity of invention (not restriction) practice is applicable in international applications and in national stage applications.” Thus, the Examiner’s reliance upon 35 USC §121 is misplaced, as this relates to the filing of divisional applications.

Because the Examiner has misapplied U.S. restriction practice and because the present application is a national stage application under a PCT International application, MPEP Section 1893.03(d) clearly prohibits the Examiner from examining a national stage application and making any election or restriction requirement. Should the Examiner apply the PCT standard, i.e., lack of “unity of invention,” the burden is on the Examiner to list the different groups of claims and to explain why each group lacks unity with the other groups and this has not yet been done.

The Examiner indicates that claims 1, 2, 5, 6, 16-19, 21 and 48-57 are all generic and this indication is appreciated. The existence of these generic claims is believed to evidence unity of invention among various groups of embodiments, thereby confirming the appropriate unity of

invention under the PCT statutes. However, since the Examiner has made no objection with respect to unity of invention, no response is needed.

Even though the current restriction requirement is not permitted under the PCT rules, Applicants provisionally elect the Species F including claims 33-38 and 41-47, along with independent claims 1, 2, 5, 6, 16-19, 21 and 48-57 as being either generic to the elected species or directed to the elected species. Claims 39 and 40 have also been amended to depend from claim 33 and should thus be included in the Species F claims. As noted above, this election is with a specific traverse, as it is improper under U.S. PTO PCT implementing rules and regulations. However, with traverse, applicant elects Species F and claims 1, 2, 5, 6, 16-19, 21, and 33-57 readable thereon.

Applicants also include an Information Disclosure Statement bringing to the Examiner's attention references cited in two co-pending applications and it is requested that these references be made of record in the present application.

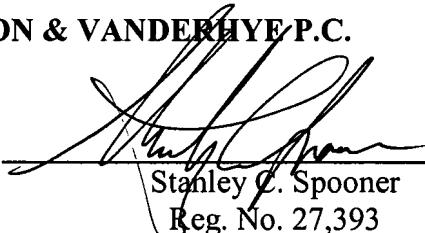
Having responded to all objections and rejections set forth in the outstanding Official Action, it is submitted that claims 1-63 are in condition for allowance and notice to that effect is respectfully solicited. In the event the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is respectfully requested to contact Applicants' undersigned representative.

LEWIN et al.
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Respectfully submitted,

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